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**FAIR POLITICAL PRACTICES COMMISSION**  
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Attorneys for Plaintiff

SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO

FAIR POLITICAL PRACTICES  
COMMISSION, a state agency,  
Plaintiff,

vs.

JANE HARMAN, JANE HARMAN FOR  
GOVERNOR, and ROBERT B. BURKE,  
Defendants.

Case No.:

**01AS05984**

COMPLAINT FOR CIVIL PENALTIES  
UNDER THE POLITICAL REFORM ACT  
OF 1974, AS AMENDED  
(Government Code Sections 91001,  
subdivision (b), and 91004)

Plaintiff, FAIR POLITICAL PRACTICES COMMISSION, a state agency, alleges as follows:

1. Plaintiff brings this action in the public interest to enforce the provisions of the Political Reform Act of 1974. (Government Code Sections 81000 through 91015.)

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3. Plaintiff, Fair Political Practices Commission (the “Commission”), is a state agency created by the Political Reform Act of 1974 (the “Act”). The Commission has primary responsibility for the impartial, effective administration and implementation of the Act. (Government Code Section 83111.)
4. Pursuant to Government Code Section 91001, subdivision (b), the Commission is the civil prosecutor for matters involving state election campaigns, and is authorized to maintain this action under Government Code Sections 91001, subdivision (b), and 91004.

PLAINTIFF, FAIR POLITICAL PRACTICES COMMISSION

DEFENDANT, JANE HARMAN

5. Defendant Jane Harman was a “candidate,” as defined by Government Code Section 82007, for the office of Governor of the State of California in the 1998 primary election.

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2 DEFENDANT, JANE HARMAN FOR GOVERNOR

- 3       6.     At all relevant times, Defendant Jane Harman for Governor was a recipient  
4             committee, as that term is defined in Government Code Section 82013,  
5             subdivision (a), and was the controlled committee of Jane Harman, as that term is  
6             defined in Government Code Section 82016.

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8 DEFENDANT, ROBERT B. BURKE

- 9       7.     Defendant Robert B. Burke was the treasurer of Jane Harman for Governor from  
10            May 21, 1998 until the committee's termination.

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12                   CAMPAIGN DISCLOSURE REQUIREMENTS

- 13       8.     Government Code Section 81002, subdivision (a), provides that one of the  
14             purposes of the Political Reform Act is to ensure that receipts and expenditures in  
15             election campaigns are fully and truthfully disclosed in order that the voters may  
16             be fully informed and improper practices may be inhibited.
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- 18       9.     Government Code Section 81003 states that the Political Reform Act should be  
19             liberally construed to accomplish its purpose.
- 20
- 21       10.    To facilitate the goals of complete and truthful disclosure of receipts and  
22             expenditures, the Political Reform Act includes a comprehensive scheme of  
23             campaign finance disclosure. (Government Code section 84200 *et seq.*)  
24  
25

1 11. Pursuant to Government Code Sections 84100 and 81004, subdivision (b), and  
2 Title 2, California Code of Regulations, Section 18427, subdivision (a), it is the  
3 duty of a committee's treasurer to ensure compliance with all of the requirements  
4 of the Political Reform Act concerning the receipt, expenditure and reporting of  
5 campaign funds. A committee's treasurer may be held jointly and severally  
6 liable, along with the committee, for any reporting violations committed by the  
7 committee. (Government Code Section 91006.)  
8

9 12. Pursuant to Government Code Section 91004, any person who intentionally or  
10 negligently violates any of the reporting requirements of the Political Reform Act  
11 shall be liable in a civil action for an amount not more than the amount or value  
12 not properly reported. Persons that violate Government Code Section 84211 are  
13 liable in a civil action pursuant to Government Code Section 91004.  
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15 FIRST CAUSE OF ACTION

16 (FAILING TO TIMELY DISCLOSE LATE CONTRIBUTIONS)

17 13. Plaintiff realleges paragraphs 1-12 of this Complaint, and incorporates them  
18 herein as though set forth at length.  
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20 14. Under Government Code Sections 82015, subdivision (a), and 82044, a loan to a  
21 committee constitutes a contribution to that committee.  
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23 15. A late contribution report must be filed by a candidate or committee which makes  
24 or receives a contribution of one thousand dollars or more, if the contribution is  
25 made, or received, before the date of the election in question, but after the closing

1 date of the last campaign statement required to be filed before the election.  
2 (Government Code Sections 82036 and 84203.)  
3

4 16. For the June 2, 1998 primary election, the late reporting period began on May 17,  
5 1998 and ended on June 1, 1998.  
6

7 17. Government Code Section 84203, subdivision (b), requires the recipient of a late  
8 contribution to file a late contribution report within twenty-four hours of receipt  
9 of the contribution, by either facsimile transmission, telegram, guaranteed  
10 overnight mail through the United States Postal Service, or personal delivery.  
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12 18. The late contribution report filed by the recipient of the late contribution must  
13 disclose his or her full name and street address, and the date and amount of the  
14 late contribution. The report must also disclose the full name of the contributor,  
15 his or her street address, occupation, and the name of his or her employer, or if  
16 self-employed, the name of the business. (Government Code Section 84203.)  
17

18 19. On May 21, 1998, candidate Jane Harman and her spouse loaned \$1.6 million to  
19 the Jane Harman for Governor committee, but failed to timely disclose this  
20 contribution on a late contribution report.  
21

22 20. On May 26, 1998, Defendants Jane Harman and Jane Harman for Governor  
23 received a contribution from Smith Bagley in the amount of two thousand dollars,  
24 but failed to timely disclose this contribution on a late contribution report.  
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1           21.     On May 29, 1998, Defendants Jane Harman and Jane Harman for Governor  
2                   received a contribution from Thomas E. Gallagher in the amount of five thousand  
3                   dollars, but failed to timely disclose this contribution on a late contribution report.

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5           22.     By intentionally or negligently failing to timely file late contribution reports,  
6                   Defendants Jane Harman, Jane Harman for Governor, and Robert B. Burke  
7                   violated Government Code Section 84203.

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9                                   SECOND CAUSE OF ACTION

10                   (FAILURE TO TIMELY ITEMIZE SUBVENDOR EXPENDITURES)

11           23.     Plaintiff realleges paragraphs 1-12 of this complaint, and incorporates them herein  
12                   as though set forth at length.

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14           24.     An “expenditure” is a payment, forgiveness of a loan, a payment by a third party,  
15                   or an enforceable promise to make a payment, unless it is clear from the  
16                   surrounding circumstances that it is not made for political purposes. An  
17                   expenditure is made on the date the payment is made or on the date consideration,  
18                   if any, is received, whichever is earlier. (Government Code Section 82025 and  
19                   Title 2, California Code of Regulations, Section 18225, subdivision (a).)

20  
21           25.     At all relevant times, Government Code section 84211, subdivision (j), provided  
22                   that for each person to whom an expenditure of one hundred dollars or more has  
23                   been made during the period covered by a campaign statement, the statement  
24                   must disclose his or her full name and street address, the amount of each  
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1 expenditure, and a brief description of the consideration for which each  
2 expenditure was made.

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4 26. Expenditures made by an agent or independent contractor, on behalf of or for the  
5 benefit of any candidate or committee must be reported by the candidate or  
6 committee as if the expenditure were made directly by the candidate or  
7 committee. Government Code Sections 84211, subdivision (j)(6), and 84303.  
8 These are commonly referred to as “subvendor” expenditures.

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10 27. Expenditures by an agent that must be reported include expenditures for  
11 advertising time and space. (Title 2, California Code of Regulations, Section  
12 18431, subdivision (a)(2)(B).)

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14 28. During January 1, 1998 through June 30, 1998, Jane Harman for Governor raised  
15 and spent approximately \$16.2 million.

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17 29. For the period of January 1, 1998 through May 16, 1998, Jane Harman for  
18 Governor timely disclosed subvendor expenditures totaling approximately \$9.7  
19 million.

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21 30. On their original campaign filing of August 5, 1998 for the period of May 17,  
22 1998 through June 30, 1998, Defendants Jane Harman, Jane Harman for  
23 Governor, and Robert B. Burke, failed to disclose any itemized subvendor  
24 information.

1           31.    By failing to disclose any itemized subvendor information for the reporting  
2                   period of May 17, 1998 through June 30, 1998, Defendants Jane Harman, Jane  
3                   Harman for Governor, and Robert B. Burke, failed to disclose required itemized  
4                   information regarding one hundred and eighty-four (184) subvendor payments  
5                   totaling \$3,408,387.53.

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7           32.    On May 25, 2001, Defendants Jane Harman, Jane Harman for Governor, and  
8                   Robert B. Burke filed amended campaign statements disclosing the previously  
9                   non-itemized subvendor payments totaling \$3,408,387.53.

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11          33.    By intentionally or negligently failing to timely itemize information regarding  
12                   subvendor payments totaling \$3,408,387.53 on their campaign statements,  
13                   Defendants Jane Harman, Jane Harman for Governor and Robert B. Burke  
14                   violated Government Code Sections 84211, subdivision (j)(6) and 84303.

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16   WHEREFORE, Plaintiff prays for judgments against Defendants as follows:

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18          1.    With respect to the First Cause of Action, for statutory penalties against  
19                   Defendants Jane Harman, Jane Harman for Governor, and Robert B. Burke,  
20                   jointly and severally, payable to the General Fund of the State of California,  
21                   according to proof, in amounts as permitted by Government Code Section 91004,  
22                   up to the amount that was unreported, which is \$1,607,000.00.

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24          2.    With respect to the Second Cause of Action, for statutory penalties against  
25                   Defendants Jane Harman, Jane Harman for Governor, and Robert B. Burke,



1 jointly and severally, payable to the General Fund of the State of California,  
2 according to proof, in amounts as permitted by Government Code Section 91004,  
3 up to the amount that was unreported, which is \$3,408,387.53.  
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5 3. For such other and further relief as the Court may deem proper.  
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7 STEVEN B. RUSSO  
8 Enforcement Chief  
9 MARK R. SOBLE  
10 Senior Commission Counsel

11 Dated: October 1, 2001.

12 By:



13 Mark R. Soble, State Bar No. 136897  
14 Attorney for Plaintiff,  
15 Fair Political Practices Commission  
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